



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

April 4, 2014

Dear Mr. Wayment:

Justin W. Wayment, P.C.
51 East 400 North, Bldg. 1
Cedar City, Utah 84721

I have received your letter of March 21, 2014 regarding distribution issues on the Lower Beaver River. You bring up essentially two issues: 1) the allocation of "ditch loss" below the Furnace Dam, and 2) the accounting of water at the end of October of 2013. I will address each of these concerns, respectively.

Your letter repeatedly refers to seepage and evaporation losses below the Furnace Dam as "ditch loss." However, water is conveyed past the Furnace Dam to the Minersville Reservoir through the *natural channel of the Beaver River*. Loss from a natural river channel is more accurately described as "river loss." The general rule in Utah is that river loss is shared proportionately by the most junior users (having equal priority) on a regulated portion of a stream.

Regarding your clients' request to store late season water in Minersville Reservoir for exchange or "credit" the following year, your clients have been repeatedly advised by this office that they could not do that unless they had an agreement with Rocky Ford Irrigation Company (Rocky Ford). Your clients had the opportunity to take their full allocation of water at the end of October of 2013—and I have been informed that they were given adequate notice to do so—but it appears they deliberately chose not to call for their water.

As State Engineer I am statutorily required to ensure water distribution on the Lower Beaver River is in accordance with the Beaver River Decree and other established water rights. If your clients desire to share water with Rocky Ford in a manner that is not consistent with the decree and the established water rights, they will need to have an agreement with Rocky Ford, and may also need to file applications with this office. In the meantime water will continue to be distributed under my direction in accordance with statutory requirements.

Sincerely,

Kent Jones, P.E.
Utah State Engineer

